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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/819,201	03/28/2001	Paul F. Connelly JR.	PFC 00422	2925

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EXAMINER

WEEKS, GLORIA R

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 04/08/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/819,201

Applicant(s)

CONNELLY, PAUL F.

Examiner

Gloria R Weeks

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

2. Claims 1-2, 9-10, 14-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Amicangelo (USPN 6,364,031).

In reference to claim 1, Amicangelo discloses a driver (10) for inserting an elongated object (60) into earth (figures 4-5), the driver (10) comprising: a body portion (32, 34) having an elongated cavity (36, 38) for receiving such elongated object (60; column 5, lines 7-22), the elongated cavity having a blind end (42, 44) within the body portion (32, 34); an impact surface carried by the body portion substantially normal to the elongated cavity, for receiving impacts (column 5, lines 14-17, 23-25); and at least one elongate handle (20; column 6, lines 19-26) attached to the body portion (32, 34; column 4, lines 64-67; column 5, lines 1-5).

Regarding claim 2 and its limitations as stated above, Amicangelo discloses a driver (10) for inserting an elongated object (60) into earth (figures 4-5), wherein the at least one elongated handle (22, 24) is substantially parallel to the elongated cavity (36, 38) and spaced apart laterally from the elongated cavity.

With respect to claim 9 and its limitations as stated above, Amicangelo discloses a driver (10) for inserting an elongated object (60) into earth (figures 4-5), wherein the driver includes at

least a two elongated handles (24, 22), the at least two elongated handles (22, 24) being spaced apart oppositely from the elongated cavity (36, 38).

In reference to claim 10 and its limitations as stated above, Amicangelo discloses a driver (10) for inserting an elongated object (60) into earth (figures 4-5), wherein the body portion (30) includes a pipe welded normally to a plate (28), and the two elongated handles (22, 24) are welded to the plate (29; column 5, lines 47-49; column 6, lines 19-26).

Regarding claim 14, Amicangelo discloses a driver (10) for inserting an elongated object (60) into earth (figures 4-5), the driver (10) comprising: a body portion (32, 34) having an elongated cavity (36, 38) for receiving such elongated object (60; column 5, lines 7-22), the elongated cavity having a blind end (42, 44) within the body portion (32, 34); an impact surface carried by the body portion substantially normal to the elongated cavity, for receiving impacts (column 5, lines 14-17, 23-25); and at least one elongate handle (20; column 6, lines 19-26) attached to the body portion (32, 34; column 4, lines 64-67; column 5, lines 1-5); and a pair of handles (22, 24) spaced laterally and oppositely from the cavity (32, 34), the handles being substantially parallel to the to the elongated cavity (32, 34; column 6, lines 19-26).

With respect to claim 15 and its limitations as stated above, Amicangelo discloses a driver (10) for inserting an elongated object (60) into earth (figures 4-5) having sufficient strength and mass to be employed as an impact device to provide impacts on the elongated object (60) by the blind end (42, 44) of the elongated cavity (32, 34; column 5, lines 14-17, 23-25).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3-5, 7-8 and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Amicangelo (USPN 6,364,031) as applied to claim 1 above, and further in view of Tucker (USPN 5,934,139).

With respect to claim 3 and its limitations as stated above, Amicangelo discloses a driver (10) for inserting an elongated object (60) into earth (figures 4-5), wherein the impact surface (42, 44) has an area substantially less than a cross section of the elongated cavity (32, 34) whereby the driver is a good target for a hammer. Tucker teaches a driver for inserting an elongated object (12) into a surface (figures 3a-3b), wherein the impact surface (38) has an area substantially greater than a cross section of the elongated cavity (14) whereby the driver is a good target for a hammer. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the impact surface of Amicangelo to include the impact surface of Tucker.

In reference to claim 4, 16 and their limitations as stated above, Amicangelo discloses a driver (10) for inserting an elongated object (60) into earth (figures 4-5), wherein the body portion (32, 34) includes a pipe (30) attached normally to a plate (28), however the impact surface (22, 24) are located on the sides of the plate (28), not the upper surface of the plate (28). Tucker teaches a pipe attached normally to a block (38) and the impact surface is the upper portion of the block (38). It would have been obvious to one having ordinary skill in the art to further modify the driver of Amicangelo in view of Tucker by replacing the block with a plate for the purpose of having a plate attached to the pipe acting as the impact surface, since the specific use of plate is not stated to solve a specific problem.

Regarding claim 5, 17 and their limitations as stated above, the modified driver of Amicangelo in view of Williams et al. discloses a pipe that is welded to a plate.

In reference to claim 7 and its limitations as stated above, Amicangelo discloses a driver (10) for inserting an elongated object (60) into earth (figures 4-5) wherein the handle is welded to the plate at an end of the handle (column 5, lines 47-49; column 6, lines 19-26).

Regarding claim 8 and its limitations as stated above, Amicangelo discloses a driver (10) for inserting an elongated object (60) into earth (figures 4-5) wherein the handle further includes a transverse portion attached to the pipe (30) at a location on the pipe (30) spaced longitudinally from the plate (figures 1 and 4-5).

5. Claims 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Amicangelo (USPN 6,364,031) and Tucker (USPN 5,934,139) as applied to claim 5 above, and further in view of Ubbink (USPN 5,029,651)

With respect to claim 6 and its limitations as stated above, Amicangelo discloses a driver (10) for inserting an elongated object (60) into earth (figures 4-5), wherein the body portion (32, 34) includes a pipe (30) welded normally to a plate (28; column 5, lines 47-49), but does not disclose the attachment consisting of gusset welds. Ubbink teaches a driver using gusset welds to attach the upper surface of handles to the body portion of the driver (figure 6). It would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the driver of Amicangelo to include the gusset welds of Ubbink to connect the plate to the body portion of the driver.

6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Amicangelo (USPN 6,364,031 as applied to claim 10 above, and further in view of Ubbink (USPN 5,029,651)

Regarding claim 11 and its limitations as stated above, Amicangelo discloses a driver (10) for inserting an elongated object (60) into earth (figures 4-5), wherein the body portion (32, 34) includes a pipe (30) welded normally to a plate (28; column 5, lines 47-49), but does not disclose the attachment consisting of gusset welds. Ubbink teaches a driver using gusset welds to attach the upper surface of handles to the body portion of the driver (figure 6). It would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the driver of Amicangelo to include the gusset welds of Ubbink to connect the plate to the body portion of the driver.

7. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Amicangelo (USPN 6,364,031 as applied to claim 10 above, and further in view of Deike (USPN 3,735,822).

With respect to claim 12 and its limitations as stated above, Amicangelo discloses a driver (10) for inserting an elongated object (60) into earth (figures 4-5) further having elongated handles (22, 24) but does not disclose elongated handles (22, 24) with hand grip. Deike teaches a driver having elongated handles (67, 70) with hand grips (71, 72). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the handles of the driver of Amicangelo to include the hand grips of Deike.

8. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Amicangelo (USPN 6,364,031) in view of Tucker (USPN 5,934,139) as applied to claim 4 above, and further in view of Bitzel (USPN 3,847,049).

Amicangelo discloses a driver (10) for inserting an elongated object (60) into earth (figures 4-5) but does not disclose any means for removing earth from the pipe. Bitzel teaches a slot in being used to facilitate removal of impacted debris from a tool (column 5, lines 58-63). It would have been obvious to one having ordinary skill in the art at the time the invention was made to further

modify the driver of Amicangelo in view of Tucker to include the slot of Bitzel for the purpose of facilitating the removal of impacted earth from the pipe of the driver.

9. Claims 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Amicangelo (USPN 6,364,031) and Tucker (USPN 5,934,139) as applied to claim 17 above, and further in view of Ubbink (USPN 5,029,651)

With respect to claim 18 and its limitations as stated above, Amicangelo discloses a driver (10) for inserting an elongated object (60) into earth (figures 4-5), wherein the body portion (32, 34) includes a pipe (30) welded normally to a plate (28; column 5, lines 47-49), but does not disclose the attachment consisting of gusset welds. Ubbink teaches a driver using gusset welds to attach the upper surface of handles to the body portion of the driver (figure 6). It would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the driver of Amicangelo to include the gusset welds of Ubbink to connect the plate to the body portion of the driver.

In reference to claim 19 and its limitations as stated above, Amicangelo discloses a driver (10) for inserting an elongated object (60) into earth (figures 4-5), wherein the body portion (30) includes a pipe welded normally to a plate (28), and the two elongated handles (22, 24) are welded to the plate (29; column 5, lines 47-49; column 6, lines 19-26).

Regarding claim 20 and its limitations as stated above, Amicangelo discloses a driver (10) for inserting an elongated object (60) into earth (figures 4-5) wherein the handle further includes a transverse portion attached to the pipe (30) at a location on the pipe (30) spaced longitudinally from the plate (figures 1 and 4-5).

With respect to claim 21 and its limitations as stated above, Amicangelo discloses a driver (10) for inserting an elongated object (60) into earth (figures 4-5) wherein the handle further

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includes transverse portions welded to the pipe (30), but does not disclose those welds as being gusset welds. Ubbink teaches a driver using gusset welds to attach the handles to the body portion of the driver (figure 6). It would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the driver of Amicangelo to include the gusset welds of Ubbink to connect the plate to the body portion of the driver.

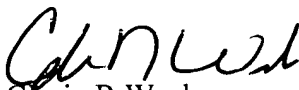
Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Refer to attachment for notice of references cited and recommended for consideration.

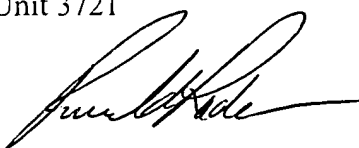
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria R Weeks whose telephone number is (703) 605-4211. The examiner can normally be reached on 6:30 am - 5:00 pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on (703) 305-2187. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7769 for regular communications and (703) 308-7769 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-1789.


Gloria R Weeks
Examiner
Art Unit 3721

grw
April 4, 2002


Rinaldi I. Rada
Supervisory Patent Examiner
Group 3700